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CORPORATIONS — STOCKHOLDERS — RIGHT OF PREFERRED STOCKHOLDERS TO SHARE IN STOCK DIVIDENDS. — A corporation declared a stock dividend to common stockholders only. It represented a distribution of accumulated earnings after payment of the preferred dividend at the rate fixed by the charter. The plaintiff, a preferred stockholder, brought suit to share in the dividend. *Held*, that the plaintiff cannot recover. *Niles, Admr. v. Ludlow Valve Mfg. Co.*, 46 Nat. Corp. Rep. 51 (C. C. A., 2d Circ.).

The common stockholders would undoubtedly be entitled to the surplus earnings if distributed as cash. But a preferred stockholder has none the less a right to insist that his proportionate share in the control of the corporation and the assets of the enterprise be preserved. He should therefore be allowed his *pro rata* share of any new issue of stock. Cf. *Gordon's Exrs. v. Richmond, F. & P. R. Co.*, 78 Va. 501; *Jones v. Concord & Montreal R. Co.*, 67 N. H. 119, 38 Atl. 120. See 26 HARV. L. REV. 75.

EVIDENCE — OPINION EVIDENCE — EXPERT TESTIMONY: LEARNED TREATISES. — In an action for personal injuries a medical treatise was offered as evidence of the opinion therein expressed. *Held*, that such evidence is inadmissible. *Denver City Tramway Co. v. Gawley*, 129 Pac. 258 (Colo.). See NOTES, p. 642.

EVIDENCE — SIMILAR FACTS AND OCCURRENCES — CRIMES SIMILAR TO ONE IN ISSUE. — The defendant induced the prosecuting witness to join with him in the purchase of a business. While the arrangements were being made, unknown men entered the room, alleged that they were detectives, accused the defendant of having counterfeit money, mixed the money of the plaintiff and defendant, and disappeared with it. On a prosecution for conspiracy to steal, another man was allowed to testify, to show the intent and design of the defendant, that three months after this transaction he had lost his money in a similar way while dealing with the defendant. *Held*, that this evidence was improperly admitted. *Effler v. State*, 85 Atl. 731 (Del., Super. Ct.).

Considerations of policy render inadmissible evidence of other crimes when relevant only to show the defendant's bad character. *Ware v. State*, 91 Ark. 555, 121 S. W. 927. But such evidence is admissible when relevant for other purposes. See *Commonwealth v. Robinson*, 146 Mass. 571, 577, 16 N. E. 452, 454. One view makes the test of admissibility whether the evidence offered is probative of certain enumerated matters connected with the crime, such as intent, identity, and design. *People v. Molineux*, 168 N. Y. 264, 61 N. E. 286; *Schultz v. United States*, 200 Fed. 234. In such cases admission is considered an exception to the general excluding rule. See *Commonwealth v. Jackson*, 132 Mass. 16, 18. The other view requires only that the evidence be materially relevant to establish the crime charged, other than by showing the defendant's bad character. *Rex v. Ball*, [1911] A. C. 47. See *People v. Molineux*, 168 N. Y. 264, 343. This view seems more just and logical and less artificial. Some courts in adhering to the narrower view have rejected evidence of great probative value. *Marshall v. United States*, 197 Fed. 511; *State v. Jeffries*, 117 N. C. 727, 23 S. E. 163. Ultimately, indeed, the two theories may achieve substantially similar results, for the tendency of the courts adopting the restrictive view is to increase the number of exceptions. See UNDERHILL, CRIMINAL EVIDENCE, § 87. In the principal case, on account of the similar peculiarities of the two crimes, the evidence had considerable probative value, and under either theory it would seem to be relevant to show that the acts of the alleged detectives and the defendant were done in pursuance of a plan which the defendant aided in performing, and that the defendant did not act innocently. *People v. Weil*, 244 Ill. 176, 91 N. E. 112; *Commonwealth v. Pugliese*, 44 Pa. Super. Ct. 361; *State v. Craddick*, 61 Wash. 425, 112 Pac. 491.